

DWP Providers Complaint core briefing pack

November 2019

Introduction

Background

In November 2010 the Minister of State for Employment and the DWP Permanent Secretary agreed a new process to improve the complaints process for claimants receiving services from contracted providers. This process would be included in all new or renewed contracts from April 2011.

The policy has been designed to:

- a. encourage the earliest possible resolution of complaints;
- b. offer an equitable service compared to that for other DWP claimants;
- c. give the right incentives to providers to offer good customer service; and
- d. remove the need for DWP staff to act as a 'go-between' for the provider and the claimant to resolve complaints about the provider's service.

Since August 2012 we have been working with providers whose contracts pre-date April 2011 to migrate them to the new provider complaint process on a voluntary basis.

Chapter 1: Provider complaint resolution process

Complaints about the provider

Claimants or their representatives (which could include a Member of Parliament) will initially be directed to raise their complaint with the provider. Providers are required to have an appropriate complaints process, and the claimant is expected to follow that process.

If the claimant remains dissatisfied after completing the provider's complaints process, as with the DWP complaints process, the claimant will be able to escalate their complaint directly to the Independent Case Examiner's office (ICE). The ICE will investigate a complaint against a provider in the same way as that of any other DWP business strand and report on performance annually in their [annual report](#).

Complaints about DWP and the provider (mixed complaints)

If the claimant is unhappy with the service that they have received from DWP and the provider, DWP will take ownership of the complaint and will liaise with the provider to obtain a contribution to the response.

If the claimant remains dissatisfied with the response regarding the provider's service the complaint should escalate through the provider's complaint process. Once they have completed this process they will be able to escalate their complaint directly to ICE.

If the claimant remains dissatisfied with the DWP element of the complaint they can escalate their complaint through the DWP complaint process (including escalation to ICE).

Chapter 2: Guidance

The Provider Guidance gives information about your role as an organisation contracted to deliver provision for the DWP. This information covers situations where the requirements of the programme are unique, or differ from the general rule, and should be read in conjunction with the [Generic Guidance](#). More information about the Programme Specific guidance can be found using the following link: [Programme specific guidance](#).

There is considerable detail in the schedules of provider contracts with DWP. The Provider Guidance provides additional information to the contract schedules in terms of your relationship with DWP, what needs to be achieved in relation to the provision being delivered, and how to go about certain tasks and deal with issues.

The chapters can be searched for specific information, but if you cannot resolve issues by referring to the guidance you should discuss these with your DWP Performance Manager.

Protection of Vulnerable Groups Scheme (PVG Scotland)

Providers should ensure that they have reviewed the [PVG Scheme on The Scottish Government website](#) for the latest information and guidance and take the appropriate action.

Providers who work with vulnerable groups in both Scotland and England should take consideration of the differences between the PVG scheme (Scotland) and the [Disclosure and Barring Service](#) (England).

Chapter 3: Complaint Resolution

A guide for DWP Providers

Background

Resolving complaints at the outset can reduce the need for individuals to escalate their complaint to achieve an appropriate response and/or outcome. DWP benchmark against the cross government complaint standards, to identify strengths and area for improvement. The standards can be found at Annex 2.

Providers may find it useful to embed the standards within their own complaint resolution processes. DWP are happy to share information about how they are bringing the standards to life and we are happy to share, on request, copies of our corporate complaint resolution guidance. You can find our contact details on page 3 of this document.

Chapter 4: ICE

The Independent Case Examiner's Office: considering complaints about a provider

Who is the ICE?

The Independent Case Examiner (ICE) is an independent office holder, supported by Department for Work and Pensions staff. The ICE does not act on behalf of customers, but as an independent arbiter.

Roles and Responsibilities

The ICE Office has two primary purposes:

- to provide a free complaint resolution and investigation service to individuals who are unhappy with the final response to their complaint from the relevant DWP business or provider.
- to support DWP businesses and providers in improving their services, by highlighting where things have gone wrong and making constructive recommendations based on the complaints the ICE Office sees. Recommendations might be systemic in nature or case specific.

Complaint process

The ICE office has three stages of complaint examination which will be applied to any complaints made about providers. At every stage, providers will have the opportunity to give their version of events and provide any supporting evidence.

Stage 1: Resolution

If a complaint is relatively straightforward, and the customer has reasonable expectations about what the provider could do to resolve it, ICE will liaise between the parties involved and try to reach an agreement which is satisfactory to all. If a complaint is resolved at this stage then no formal finding will be made and no fees will apply.

Stage 2: Settlement

If the complaint cannot be resolved, ICE will request the evidence from the provider to establish what happened. [This can include recordings of the assessment and/or telephone calls etc.] You will need to provide copies of all the evidence relating to the complaint. Once this information is received ICE will be in a better position to consider what needs to be done to put matters right, and what redress might be appropriate. Following the review of the evidence, ICE will propose a way forward. If the provider agrees with the actions proposed, and the complainant is satisfied that they address their issues, the case will be closed. Again, no formal finding will be made and no fees will be applied.

Stage 3: Investigation Report

If ICE is unable to reach an agreement between the complainant and the provider which satisfies the complainant that their concerns have been addressed, ICE will prepare a report setting out their overall findings in respect of the complaint.

To ensure the findings are based on a correct interpretation of the facts, ICE will share the provisional findings at the draft stage with the Provider. It is the role of the

provider to check the accuracy of the interpretation of the facts, and if they are incorrect, to explain the reason(s) why.

Where appropriate, ICE will identify areas of maladministration and include recommendations which will focus on what needs to be done to put matters right and provide appropriate redress (including potential financial redress). The provider will be liable to pay any financial redress deemed by ICE. ICE will apply the following DWP policy when considering if any redress is due to the customer:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/736194/financial-redress-for-maladministration-dwp-staff-guide.pdf

If a complaint is upheld against a provider at the investigation stage a £5,000 contribution to costs will be recovered from that provider¹.

How does the ICE make a decision?

The ICE Office will conduct its investigations by reviewing the evidence, and comparing what happened (or was most likely to have happened based on the evidence) with any agreed processes or published standards for the provider concerned. If the ICE judges the treatment received by the claimant to be below or not in accordance with the agreed standards the complaint would be upheld. If there are no agreed standards relevant to the case, ICE will apply a 'reasonableness test' to the circumstances of the case.

Learning from complaints

ICE will send a copy of the final report to the provider and DWP contract management team for information and analysis - this will offer feedback on the complaint that has been considered. Any systemic improvements, for example, the need for clearer wording in a standard letter or leaflet, will be raised with the provider as soon as a problem is identified.

The ICE also produces an annual report which includes information about the number of complaints that have been received and the providers that they have received complaints about. The report details trends and key findings from the previous year. Examples of previous year's reports can be found on the [ICE website](#).

The Parliamentary and Health Service Ombudsman (PHSO)

The provider has no right of appeal against an ICE finding. However, if the claimant is unhappy with the outcome of the ICE investigation (for example, if the ICE does not uphold their complaint or does not agree with the level of redress recommended) they can ask an MP to take their case to the PHSO. If the PHSO accepts their case, they may recommend different or additional financial redress for the claimant.

For more information please visit the ICE website at www.ind-case-exam.org.uk or the PHSO website at www.ombudsman.org.uk

¹ At this time the £5,000 payment only applies to Providers who have been contracted (either new or renewed) since April 2011 and whose contract is worth over £50,000.

Chapter 5: Parliamentary and Health Service Ombudsman

The PHSO deals with complaints about a wide range of government departments and public bodies including services which are contracted by, or provided for by DWP.

The PHSO has wide ranging powers and, subject to some very small exceptions, may require any Minister, or member of the department (or any other person who is able to do so) to furnish such information or produce any document that is required as part of their investigation.

A customer can ask a Member of Parliament to raise their dissatisfaction with the PHSO. The PHSO will usually consider whether the complainant has exhausted the provider's complaint resolution tiers (including the ICE Office) before deciding whether to investigate the complaint. However, the PHSO does have discretion to accept cases which have not exhausted the relevant complaint resolution tiers.

For more information about the Parliamentary and Health Service Ombudsman you can visit their website www.ombudsman.org.uk

The process in detail

Annex 1

Complaint clauses included within the provider contracts.

For contracts valued at or above £50,000

2.11 Customer Complaints

2.11.1 The Prime Contractor shall have an internal dispute resolution procedure for dealing with complaints from Customers about the Prime Contractor (and/or any of its Sub-contractors).

2.11.2 If the dispute between the Customer and the Prime Contractor (and/or the Sub-contractor) cannot be resolved the dispute shall be referred to the Independent Case Examiner ("ICE") for mediation.

2.11.3 If the dispute cannot be resolved by mediation, ICE will conduct a full investigation. The decision of ICE shall be final and binding upon the parties to the dispute. The ICE investigation shall carry a £5,000 contribution to costs paid by the Prime Contractor or the Sub-contractor, who will also be liable for any financial redress recommended by ICE. In the event that the complaint against the Prime Contractor or Sub-contractor is dismissed, no costs shall be payable. Any costs in respect of complaints that have been upheld against the Prime Contractor or the Sub-contractor and any financial redress due to the customer shall be paid within four (4) weeks of the date of the ICE final investigation report.

For contracts valued below £50,000 (or for existing contracts – voluntary addition)

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2.11.3 If the dispute cannot be resolved by mediation, ICE will conduct a full investigation. The decision of ICE shall be final and binding upon the parties to the dispute. The Prime Contractor or the Sub-contractor will be liable for any financial redress recommended by ICE. Any financial redress due to the customer shall be paid within four (4) weeks of the date of the ICE final investigation report

Annex 2

Standard	Suggested evidence of compliance	Can we demonstrate compliance	Improvement activity
<p>(1) Our complaint process is accessible to all and easy to use</p> <ul style="list-style-type: none"> ○ Reference: 4.3.2 Ombudsman’s Principles – Being open and accountable 	<p>1.1 - We publish information which describes our definition of a complaint, and explains (if appropriate) the difference between a complaint about our service and dissatisfaction with a decision which carries statutory review and appeal rights</p> <p>1.2 – We publish information about: how to complain; what information to provide to inform our investigation of the complaint; what will happen in response to the complaint; and how long it should take to respond to the complaint</p> <p>1.3 - We accept complaints in a wide variety of ways, which recognises the needs of our customers. We will consider including digital access, for example web forms.</p> <p>1.4 - We provide customers with information about our approach to providing a remedy / redress in response to a justified complaint, incorporating: an apology, an explanation, an assurance; information; corrective action and financial redress.</p>		
<p>(2) We provide staff with</p>	<p>2.1 – We understand the core skills of</p>		

<p>clear definitions, training and guidance about our complaints process</p> <ul style="list-style-type: none"> ○ Reference: Ombudman’s Principles – Being customer focussed / - Acting fairly and proportionately 	<p>complaint handlers and investigators, and recognise their specific needs, which include recognising good complaint handling.</p> <p>2.2 – We have complaint policies and procedures, which are available to staff with responsibility for resolving complaints.</p> <p>2.3 – We have an organisational wide definition of a complaint, which is clearly articulated within our policies and procedures, and forms the basis of our complaint handling training.</p> <p>2.4 – We train staff on how to investigate and resolve complaints in a full and impartial manner.</p> <p>2.5 – We develop a culture which values complaints and explain to staff the potential costs (to the complainant, our organisation and our reputation) of failing to resolve complaints at the earliest opportunity.</p> <p>2.6 – We provide staff with guidance on the circumstances in which we can consider providing financial redress.</p> <p>2.7 – We have put in place arrangements</p>		
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	<p>for administering cross-cutting complaints, which is explained in guidance to staff.</p> <p>2.8 – We provide staff with guidance on how to deal with persistent complainants.</p> <p>2.9 – We provide guidance on how to administer complaints about staff.</p> <p>2.10 – We use standardised terminology for describing staff with responsibility for resolving complaints.</p> <p>2.11 – All staff who regularly handle complaints have an appropriate objective which reflects the need for both quality of handling and timeliness.</p>		
<p>(3) We focus on resolving complaints within specified timescales, and to a high quality standard</p> <ul style="list-style-type: none"> ○ Reference: Ombudsman’s Principles – Getting it right / - Putting things right 	<p>3.1 - We contact the complainant to clarify their (elements of) complaint; and obtain a clear articulation of what action they would like to see taken to resolve it.</p> <p>3.2 – We keep the complainant informed of timescales for any agreed resolution actions.</p> <p>3.3 - We retain a record of any discussion with the complainant or their representative.</p>		

	<p>3.4 - We tell complainants, at case closure, how long it will take to complete any outstanding action on their case.</p> <p>3.5 – If the complainant tells us they are dissatisfied with our attempts to resolve their complaint, we escalate their complaint to the next stage of our complaints process.</p> <p>3.6 – Our final response to the complaint is reviewed by someone who has had no involvement in earlier responses.</p> <p>3.7 – If appropriate, our final response explains why we cannot achieve the desired outcome, and how to escalate the complaint if the complainant is unhappy with the explanation provided.</p>		
<p>(4) We have mechanisms in place for assuring the quality of our complaint resolution processes</p> <ul style="list-style-type: none"> ○ Reference: Ombudsman’s Principles – Acting fairly and proportionately / - Getting it right 	<p>4.1 – We have mechanisms in place to ensure complaint escalation and outcome data is regularly reviewed / analysed to inform performance and improvement activity.</p> <p>4.2 - We have a defined process for quality assuring complaint responses.</p> <p>4.3 - We regularly review the effectiveness of our complaint resolution policies, guidance and operational procedures</p>		

	<p>4.4 – We seek feedback from our customers on the quality of our complaint resolution process</p>		
<p>(5) We have clearly defined our complaint information requirements, and publish information</p> <ul style="list-style-type: none"> ○ Reference: Ombudsman’s Principles – Seeking continuous improvement 	<p>5.1 - We record complaints in accordance with an agreed, organisational wide information specification.</p> <p>5.2 – We recognise the importance of data analysis and the value this adds to gathering clear complaint information.</p> <p>5.3 - We have agreed complaint categories, which help us identify and understand those aspects of our service which prompt users to complain.</p> <p>5.4 – We provide data on the percentage of complaints responded to within our published clearance times.</p> <p>5.5 - We record the outcome of complaints, in terms of action taken to resolve/clear the complaint. For example: explanation / assurance / information / apology / corrective action / financial redress</p> <p>5.6 - We have defined a standard set of complaint data for publication, which incorporates the number of recorded complaints</p>		

	<p>5.7 - We record and report how much we spend on special payments in response to maladministration (<i>in accordance with Treasury Guidance on Managing Public Money</i>)</p>		
<p>○ (6) We have a clear mechanism for learning from our complaints to improve our service Reference: Ombudsman's Principles – Acting fairly/ - Getting it right</p>	<p>6.1 - We have in place a clear mechanism for sharing, analysing and considering how to respond to complaints performance data</p> <p>6.2 - We tell staff with responsibility for dealing with complaints how to escalate issues they identify which may have wider organisational implications. For example, if a process is having a negative impact on the customer experience</p> <p>6.3 - We have in place a clear mechanism for progressing systemic failures identified as a result of complaints about our service</p> <p>6.4 – We have in place a clear process for impacting and progressing systemic recommendations arising from complaints</p> <p>6.5 - We can demonstrate what improvements have been made as a result of complaints about our service</p> <p>6.6 – We have effective change management processes which support our</p>		

	<p>drive for continuous improvement.</p> <p>6.7 - We publish information about service improvements arising from complaints for the benefit of staff and customers.</p> <p>6.8 – We have considered and articulated, for internal reference, what constitutes “success” in terms of complaint resolution improvement activity. For example, a reduction in the number of complaints escalating to our final tier and/or a reduction in the number of complaints upheld by independent complaint investigation bodies.</p>		
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